

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ATAIN SPECIALTY INSURANCE
COMPANY f/k/a USF INSURANCE
COMPANY,

No. C-12-3339 EMC

Plaintiff,

**ORDER GRANTING PLAINTIFF'S
MOTION FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT**

v.

NORTH BAY WATERPROOFING, INC.,

(Docket No. 14)

Defendant.

Pending before the Court is Plaintiff's unopposed motion for leave to file a first amended complaint (FAC) to add Opus West as a defendant in this suit for declaratory judgment. *See* Fed. R. Civ. P. 15(a)(2). The original complaint was filed on June 28, 2012 and named only North Bay Waterproofing ("North Bay") as a defendant. North Bay has not appeared in this action, and default was entered by the Clerk's office on August 21, 2012. Docket No. 12. Plaintiff has the right to file a first amended complaint. *See* Fed. R. Civ. P. 15(a)(1)(B). Moreover, Plaintiff is entitled under Rule 15(a)(2) to amend the complaint "when justice so requires."

Plaintiff's original complaint states that it is not naming Opus West as a defendant because of a bankruptcy stay then in effect. King Decl. Ex. 1 at 3. That stay was lifted to permit Plaintiff to file an amended complaint adding Opus West in this action on September 5, 2012. King Decl. ¶ 20. There is therefore good cause for the amendment.

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1 Plaintiff's motion for leave to file a first amended complaint is **GRANTED**. The previously
2 set October 26, 2012 hearing on this motion is therefore **VACATED**.

3 This order disposes of Docket No. 14.

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5 IT IS SO ORDERED.

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7 Dated: October 4, 2012

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11 EDWARD M. CHEN
12 United States District Judge
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